

**STORAGE NAME:** h0099.sgc.doc  
**DATE:** April 23, 2001

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE  
COUNCIL FOR SMARTER GOVERNMENT  
ANALYSIS**

**BILL #:** HB 99  
**RELATING TO:** Ad Valorem Tax Exemption  
**SPONSOR(S):** Representative Weissman and others  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
  - (2) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
  - (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 11 NAYS 0
  - (4)
  - (5)
- 

I. SUMMARY:

HJR 99 is a House Joint Resolution proposed to amend Article VII, Section 3, of the Florida Constitution. The Resolution provides that by general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption for value attributable to improvements made for purposes of disaster preparedness.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The House Joint Resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

There is an estimated fiscal impact of \$47,000 associated with advertising this amendment.

If the Florida Constitution is amended pursuant to the provisions of HJR 99, then implementing legislation will be necessary to effectuate its provisions.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Ad Valorem Taxation**

Article VII, Section 1, of the Florida Constitution preempts to the state all forms of taxation other than ad valorem taxes levied upon real estate and tangible personal property, except as provided by general law. Article VII, Section 9 of the Florida Constitution provides that counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes, and limits these taxes to 10 mills for all county purposes, 10 mills for all municipal purposes, and 10 mills for all school purposes. Additional millage may be levied for the payment of bonds and taxes levied for a period not longer than two years when authorized by vote of the electors.

Article VII, Section 2, of the Florida Constitution requires:

"All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; . . ."

**Just Valuation**

Article VII, Section 4, of the Florida Constitution requires:

"By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, . . ."

The Florida Supreme Court has interpreted "just valuation" to mean fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a seller who is willing but not obliged to sell. *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted. The legislature may also allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character of use, but such assessment may only apply to the jurisdiction adopting the ordinance.

### **Exemptions from Ad Valorem Taxation**

Section 196.001, F.S., provides that the following property is taxable, unless specifically exempted:

- All real and personal property in the state and all personal property belonging to persons residing in this state; and
- All leasehold interests in property of the United States, of the state, or any political subdivision, municipality, agency, authority, or other public body corporate of the state.

Article VII, Section 3 of the Florida Constitution provides or allows for exemptions from ad valorem taxation. These include:

- property owned by a municipality and used exclusively by it for municipal purposes shall be exempt, and portions of property used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law;
- household goods, to every head of a family, in an amount fixed by general law, and property, to every widow or widower or blind or totally and permanently disabled person, in an amount fixed by general law, shall be exempt;
- any county or municipality may grant community and economic development ad valorem tax exemptions, for the purpose of its respective tax levy, and subject to general law;
- by general law, an exemption is granted to a renewable energy source device and to the real property on which such device is installed; and
- any county or municipality may grant historic preservation tax exemptions for the purpose of its respective tax levy, subject to the limits of general law.

The Legislature is without authority to grant an exemption from taxes where the exemption does not have a constitutional basis. *Archer v. Marshall*, 355 So.2d 781 (Fla. 1978).

### **Constitutional Provision for Amending the Constitution**

Article XI, Section 1, of the Florida Constitution, provides the Legislature the authority to propose amendments to the Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with Secretary of State's office or may be placed at a special election held for that purpose.

#### **C. EFFECT OF PROPOSED CHANGES:**

This House Joint Resolution submits to the voters an amendment to the Florida Constitution in the next general election or at an earlier special election specifically authorized for that purpose. This amendment would allow the legislature to authorize, by general law, an ad valorem tax exemption for value attributable to improvements made for purposes of disaster preparedness.

#### **D. SECTION-BY-SECTION ANALYSIS:**

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5 of the Florida Constitution requires that each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. It is estimated that the cost to the Division of Elections would be approximately \$47,000, statewide, for each amendment proposed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. (See "Fiscal Comments.")

2. Expenditures:

None. (See "Fiscal Comments.")

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. (See "Fiscal Comments.")

D. FISCAL COMMENTS:

In 1999 the Revenue Estimating Conference determined that the impact of a similar House Joint Resolution was indeterminately negative, since it was dependent upon approval of the voters and enactment by the Legislature. If the amendment were approved and enacted to exempt all improvements attributable to disaster preparedness, the Revenue Estimating Conference estimated the expected impact would have been a loss of \$108.4 million in local tax revenue. The following assumptions were used in the estimate:

The Department of Community Affairs is retrofitting homes in south Florida at an average cost of \$8,500 each for complete retrofit.

Typical retrofitting includes storm shutters, redesigning roof lines, tile roofs, and tying the roof structure to walls.

Assume 17.5% of all homes and businesses will take advantage of a portion of these renovations.

This loss would be concentrated in coastal areas of the state.

The revenue estimating conference has not determined the impact of this resolution for the current year.

The House Joint Resolution does not require local governments to expend funds. However, if this resolution were approved by the voters and enacted by the legislature, county property appraisers

would be required to expend funds to exclude the value of improvements exempted by the implementing law.

Any implementing bill would reduce property taxes for property owners whose property includes exempted improvements made for purposes of disaster preparedness.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The proposed constitutional amendment would allow the legislature to authorize, by general law, an ad valorem tax exemption for value attributable to improvements made for purposes of disaster preparedness. The proposed amendment does not limit the exemption to improvements made to existing buildings, but rather, could include any improvements to real property.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

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Joan Highsmith-Smith

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AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

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